

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

STATE OF NEW JERSEY,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
TRANSPORTATION, FEDERAL HIGHWAY
ADMINISTRATION, SHAILEN BHATT, in his
official capacity as Administrator of the Federal
Highway Administration, and RICHARD J.
MARQUIS, in his official capacity as Division
Administrator of the New York Division of the Federal
Highway Administration,

Defendants,

and

METROPOLITAN TRANSIT AUTHORITY and
TRIBOROUGH BRIDGE AND TUNNEL
AUTHORITY,

Defendant-Intervenors.

[PROPOSED] ORDER

Upon consideration of Plaintiff's Motion for Summary Judgment, it is **ORDERED** that Plaintiff's Motion for Summary Judgment is **GRANTED**, and Defendants' and Defendant-Intervenors' Motion for Summary Judgment is **DENIED**.

It is further **ORDERED**, pursuant to 42 U.S.C. §§ 4321 *et seq.* and 5 U.S.C. §§ 701–706, that the U.S. Department of Transportation Federal Highway Administration's ("FHWA") Finding of No Significant Impact ("FONSI") and Final Environmental Assessment ("Final EA") are **VACATED**.

The Court further enters a **DECLARATORY JUDGMENT** that FHWA's failure to prepare an Environmental Impact Statement ("EIS") or adequately explain why an EIS was unnecessary here violates the National Environmental Policy Act ("NEPA"), its implementing regulations, and the Administrative Procedure Act. *See* 42 U.S.C. §§ 4321 *et seq.*; 5 U.S.C. §§ 701–706.

The Court further enters a **DECLARATORY JUDGMENT** that FHWA's FONSI and Final EA are invalid as a matter of law, were prepared in violation of NEPA, and are arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law. *See* 42 U.S.C. §§ 4321 *et seq.*; 5 U.S.C. §§ 701–706.

The Court further enters a **DECLARATORY JUDGMENT** that FHWA's FONSI and Final EA failed to comply with the Clean Air Act ("CAA"), its implementing regulations and the Administrative Procedure Act (42 U.S.C. §§ 7401 *et seq.*; 5 U.S.C. §§ 701–706), and therefore FHWA's failure to perform a conformity analysis for New Jersey was arbitrary, capricious, and otherwise not in accordance with the law.

The Court further **ORDERS** FHWA to prepare an Environmental Impact Statement, as required under NEPA. 42 U.S.C. §§ 4321 *et seq.*

The Court further **ORDERS** FHWA to prepare a transportation conformity analysis for New Jersey, as required under the CAA. 42 U.S.C. §§ 7401 *et seq.*

SO ORDERED.

Date: _____

Hon. Brian Martinotti
United States District Judge